IN THE HIGH COURT OF JUDICATURE OF CHHATTISGARH
AT BILASPUR

Division Bench

W.P.NO. 2317 OF 2005

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

PETITIONERS

1. Puran Lal Jangde, S/o. Shri Bhaduram, aged about 65 years, Ex. M.L.A Malkharoda and Ex. Sarpanch, Gram Panchayat Adbhar, R/o. Village Adbhar Tahsil Malkharauda Dist Janjgir- Champa (C.G.)

:: 2) Malay Mukherjee, S/o. Shri Mohan Mukherjee, aged about 27 years, R/o HIG-11, Chandela Vihar, Bilaspur, Tahsil and Dist Bilaspur (C.G.)

P.R. No. 3260/05
Presented by Shri ...
dated 29/4/05

VERSUS

RESPONDENTS

1:: State Of Chhattisgarh, Acting Through Chief Secretary , Government Of Chhattisgarh, DKS Bhavan, Raipur (C.G.)

2:: Principal Secretary , Jal Sansadhan Vibhag DKS Bhavan, Raipur (C.G.)

3:: The Chief Engineer, Hasdeo Bango Raipur (C.G.).

CERTIFIED COPY
Copying Agency
29/5/05
BILASPUR

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT / WRITS, ORDER / ORDERS DIRECTION/DIRECTIONS ETC. IN PUBLIC INTEREST.

3036/05
29/5/05

(60)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P.No.2317..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DB: Hon'ble Shri A.K.Patnaik, C.J. &
Hon'ble Shri Sunil Kumar Sinha, J.

27.6.2005

I.A.No.4567/2005

This is an application for urgent hearing.

Application is allowed.

Heard Shri K.A. Ansari, Sr. Advocate with Shri M.K. Sinha, for the petitioners and Shri P.S. Koshy, Deputy Advocate General for the State.

The petitioners have filed this Public Interest Litigation. Petitioner No.1 is Ex-M.L.A., of Malkharoda Legislative Assembly Constituency and Ex.Sarpanch of Gram Panchayat Adbhar. Petitioner no.2 is said to be a social worker. In November-December 2004, the respondents published a notice inviting tenders for the work of cement concrete lining of branch canals in Champa, Sakti and Kharsia areas of Water Resources Department. In response to the notice, tenders were submitted by various contractors but the Chhattisgarh Irrigation Project Board took a decision rejecting all tenders and calling for fresh tenders and did not hold any negotiations with the tenderers. In this PIL, the petitioners have contended that the said decision of the Chhattisgarh Irrigation Project Board is against the public interest in as much as the cultivators of the area covered by

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the canals in which the work is to be done, will be deprived of the advantage of the irrigation. The petitioners have further contended that the process of calling for fresh tenders, scrutiny of the same, approval and drawing of the agreements and issuance of the work orders would take a long time and as a result of such delay the prices of Steel, Cement and labour charges would escalate and the public ex-chequer will be unnecessarily burdened with extra cost.

Reply has been filed on behalf of the respondents. In para 6 of the reply it is stated that the Chhattisgarh Irrigation Project Board took the decision to retender the aforesaid works after taking into consideration all relevant aspects including the inflated rates quoted by the tenders forming a cartel. In para 7 of the said reply, it is further stated that if the State Government would have accepted the tender on the rates quoted by the tenderers, it would have suffered a financial loss to the tune of 12 crores approximately. In para 9 of the reply, it is stated that notice inviting tenders for 8 works of cement concrete lining of branch canals in Champa, Sakti and Kharsia areas of Water Resources Department was published and in response there to, tenders were submitted and after processing, two tenders were accepted by Government and six tenders have been rejected. It is further stated that the accepted tenders are at the rate of 6.68 and 8.03 above the Schedule of Rates (S.O.R) while rates quoted by the

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

rejected tenders were ranging from 15 to 17% above schedule of rates and therefore, the tenders quoting the higher rates 15% to 17% above the schedule rates were rejected.

Mr.Ansari, learned counsel for the petitioners vehemently submits that in support of these facts stated in reply, no records have been produced by the State Government. But on perusal of the reply, we find that the same is supported by an affidavit of Shri Premendra Nath Hore, Superintending Engineer, Minimata Bango Canal, Circle no.2 who is the Officer-in-Charge of the case. In para 2 of the said affidavit, it is stated that the contents of the return from Paras 1 to 32 have been drafted as per his instructions and are true and correct to his personal knowledge and belief and it is further stated in the affidavit that the statement of facts are based on the official records available. In view of the said affidavit filed by the Officer-in-Charge of the case who is no less than a Superintending Engineer of the State Government, the averments made in the affidavit need not be disbelieved by the Court and the Court need not insist on production of official records.

In view of the said averments made in the reply of the respondents we dispose of the PIL with the direction that the said respondents will complete the works of lining of the canals in the

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	aforesaid areas as early as possible so that the farmers in the area get the benefit by the irrigation facilities provided by the canals. C.C. as per rules. Sd/- Chief Justice	Sd/- Sunil Kumar Sinha Judge

[RAO]